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## Fighting Hoax and Hate Speech by Strengthening The Spirit of Pancasila in Preventing Disintegration of The Nation

I Nyoman Budiana\* and I Made Warta  
*Universitas Pendidikan Nasional*  
\*budiananyoman1961@gmail.com

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### Abstract

The notion of democracy is used by most of the countries in the world as a foundation in managing the country, it is also the choice of Indonesia after the reformation period in 1998 as stated in the amendment of the 1945 Constitution. Through democracy, people can control the government administration so that the government does not act arbitrarily. With democracy, people are also given the opportunity to participate in all aspects of development, guaranteed the freedom of association / assembly to express opinions on various matters in the government administration in accordance with the constitutional corridor. In practice, after 2 (two) decades of reformation, freedom in democracy has become an act that exceeds the limit. In the national life order in Indonesia today, there have been various hoaxes (false information), utterances of hatred on social media, anarchic behavior occurring in various places, even radicalism movements which allegedly want to destroy the ideology of Pancasila and replace it with other ideologies. In this study, there are two problems that will be discussed, namely legal policy in the prohibition of hoaxes and hate speech and the ideology of Pancasila in the prevention of hoaxes and hate speeches. Legal policies in the prohibition of hoax and hate speech are regulated in Article 28 paragraph (1) of Law Number 11 Year 2008 concerning Information and Electronic Transactions. Prohibition of hoaxes and hate speeches is also carried out in various laws and regulations in other countries. Hoaxes and hate speeches threaten the integrity of Indonesia. Therefore, to guard and care for the Republic of Indonesia to remain based on the ideology of Pancasila, the nation's commitment to defend Pancasila as a state ideology must be able to actualize the noble values contained in the principles of Pancasila in life as well as possible and committed to fight hoax, utterances of hatred, anarchic actions and radicalism by strengthening the spirit of Pancasila for every Indonesian person and encouraging various government agencies to uphold the concept of the rule of law in preventing the disintegration of the nation.

**Keywords:** Democracy; Disintegration; Hoax; Pancasila; Hate Speech.

### I. INTRODUCTION

Until now, the dynamics of community life in Indonesia have not shown a stable condition in carrying out democracy after the reform era. The stages of the transition from authoritarian regimes to constitutional democracy have been running for 2 (two) decades (20 years). Even so, the implementation of democracy in Indonesia still has not shown acceleration to the next stage of consolidation of democracy, on the contrary, the current state of the nation still shows various social movements which disrupt the stability of the country such as the anarchist movement (people power) on May 22 2019 that is very contrary to the ideology of Pancasila.

The rise of hoax information and hate speeches led to anti-attitudes towards the ideology of Pancasila on social media and radicalism movements occurred before and after the 2019 legislative and presidential elections. These events became a challenge for the nation and the Indonesian government. If it is not handled seriously, programmed and systematic, then the movement will be a threat that will result in the disintegration of the nation. Hoaxes, often called fake news or false news, are behaviors that severely endanger the harmony of religious life in the midst of a diverse Indonesian life. This behavior

can lead to hostility between the followers of certain religion and ethnicity. The hostility in society is certainly very incompatible with the Pancasila personality and even leads to an uncertain conflict.

Social media is a place used by the actors to spread lies and utterances. In fact, words that defame the honor of the State by insulting the president who is a symbol of the State are uploaded on social media. The perpetrators also upload information that spreads slander that can damage the religious harmony and even the existence of the Religious Organizations like Hizb ut-Tahrir Indonesia (HTI) which are considered having closed ideology, refusing and even stating that Pancasila is infidel. This organization has been subject to administrative sanctions in the form of revocation of its legal entity by the enactment of Substitute Government Regulations Number 2 of 2017 (Wahid, 2017).

The presence of community organizations according to Law Number 17 of 2013 concerning Community Organizations is intended as a forum for various components of society to legally take shelter to convey various aspirations to the government in democratic life and assist the government in the efforts to improve people's welfare, when in certain situations like an event of natural disasters which is in emergency treated massive public participation in disaster mitigation.

If we trace it forward, the spread of hoaxes and hate speech caused by heterogeneous conditions of ethnicity, religion, culture and economic and social inequality is increasingly enlarging the entry and rise of radical ideologies. This invisible threat is a big threat to the survival of the Indonesian nation. At present, the freedom of the people in expressing their opinions and aspirations must be prioritized without seeing the potential threat that lurks. The freedom of politics and democracy seems have to be paid dearly after the anarchist movement from hoaxes and hate speeches on social media. The next factor is the political openness of life utilized by various foreign radical groups such as al-Qaeda, ISIS, assisted by advances in information technology in the current global era, and the loosening of the internal defense and security power system which is a threat that seriously endangers national integration (Hikam, 2016). The doctrine of foreign radical groups have been entering Indonesia by using the power supported by technological sophistication in cyberspace.

To overcome the various spreads of hoaxes and hate speeches, President Joko Widodo stipulated Substitute Government Regulations Number 2 of 2017 concerning Amendments to Law Number 17 of 2013 concerning Community Organizations. The emergence of these regulations originated from conditions of deviation in the order of life of the Indonesian people that were contrary to the ethics of life, the law and even against Pancasila. Whereas Pancasila is the source of all legal sources as stated in Law Number 12 of 2011 concerning the Establishment of Legislation, both by individuals and groups. According to Hadi, in the order of life of the nation and state in Indonesia must be based on the rule of law, because Indonesia is a law state. The purpose of the law state is there is the provision that will be the basis for the government to take actions that have a legal force (Sofyan & Hufon, 2016).

## **II. METHOD**

This research is a normative juridical study which examines the interrelationship between the regulation of hoaxes and hatespeech with the ideology of Pancasila, in which Pancasila is the main legal source in Indonesian legislation. Legal materials are derived from primary legal material consisting of secondary law and legal material consisting of books, journals, and scientific articles. These legal materials are collected through library research techniques. The problem analysis is carried out qualitatively.

## **III.DISCUSSION**

### ***Legal Policy in Prohibition of Hoax and Hate Speech***

Social media is now filled with news of false information (hoax), provocation, slander, intolerant and anti-Pancasila attitudes. Technological advances in the era of globalization made information so quickly circulated widely. The existence of the internet as an online media makes informations that has not been verified correctly spread quickly (Juliswara, 2017). Hoax phenomenon is not the only thing, hate speech cases are also rise in social media. The hate speech in Indonesia counts as a crime in the form of humiliation, defamation, contempt, disrespectful acts, provoking, inciting, spreading false news, and all of the above acts have a purpose or may impact on acts of discrimination, violence, disappearance of

life, and or social conflict (Sirajuddin, Kamil, & Fachruddin, 2017). Hate speech also fills the social media wall by inviting other users to share their hatred.

Hoaxes and hate speeches are information that must be watched out. Therefore, various countries in the world make laws that prohibit them. Germany in 2017 passed a law regulating the use of online platforms as a medium for disseminating speeches of hatred and disinformation. Besides Germany, Spain, France and Hungary have taken the similar steps. In addition, the European Union has a set of regulations regarding communication activities - both online and offline - and information content. The European Union has also collaborated with social media companies to ward off the hate speech. In May 2016, Facebook, Google, Microsoft, Twitter, and the European Union signed a code of ethics in response to the speech of illegal hatred in the online platform (Code of Conduct on Countering Illegal Hate Speech Online). The European Union has also developed a community guide that prohibits promotion or encouragement of acts of violence and hatred. Regarding the code of ethics with online platforms, providers are required to make self-regulatory rules to prevent the spread of speeches of hatred and disinformation. In addition, in March 2018, the European Union adopted recommendations on procedures for measuring online hate speech (Recommendation on Measures to Effectively Tackle Illegal Content Online) (Huzaini, 2018).

Provisions regarding the ban on hoaxes in Indonesia can be seen in Article 28 paragraph (1) of Law Number 11 Year 2008 concerning Information and Electronic Transactions. These provisions govern the spread of hoaxes. Article 28 paragraph (1) states "Everyone intentionally and without rights spread false and misleading news that results in consumer losses in Electronic Transactions." Provisions regarding hate speech are regulated in Article 28 paragraph (2) of Law Number 11 Year 2008 concerning Electronic Information and Transaction which states "Every person intentionally and without the right to disseminate information intended to generate hatred or hostility of certain individuals and / or groups based on ethnicity, religion, race and intergroup (SARA)."

Criminal provisions regarding hoaxes and hate speeches are regulated in Law Number 19 of 2016 concerning Amendments to Law Number 11 Year 2008 concerning Information and Electronic Transactions. Article 45A states as follows:

Anyone who intentionally and without rights disseminates false and misleading news that results in consumer loss in Electronic Transactions as referred to in Article 28 paragraph (1) shall be punished with imprisonment of a maximum of 6 (six) years and / or a maximum fine of Rp1.000,000,000.00 (one billion rupiah).

Anyone who intentionally and without the right to disseminate information intended to generate hatred or hostility of certain individuals and / or groups based on ethnicity, religion, race, and intergroup (SARA) as referred to in Article 28 paragraph (2) shall be sentenced to imprisonment for a maximum of 6 (six) years and / or a fine of a maximum of Rp1,000,000,000.00 (one billion rupiah).

In juridical technical way, the response to hoaxes and hate speeches can be seen in Circular Number: SE / 06 / X / 2015 concerning Handling of Hate Speech. The backgrounds of the issuance of the Circular are as follows:

that the issue of hate speech has increasingly gotten the attention of the public both nationally and internationally along with the increasing concern for the protection of human rights (HAM);

that acts of hatred speech have an impact that undermines human dignity and humanity as the cases happened in Rwanda, South Africa, or in Indonesia;

that from the history of humanity in this world and nation, the speech of hatred can encourage the occurrence of collective hatred, isolation, discrimination, violence, and even at the most terrible level, ethnic or genocidal repression of groups who are the target of hate speech;

that the problem of speech of hatred must be well dealt because it can undermine the principle of a diverse Indonesian nation and protect the diversity of groups in this nation;

that understanding and knowledge of forms of hate speech are important for Polri personnel as state officials who have the duty to maintain public security and order, law enforcement and protection, and service to the community, so that precautions can be taken as early as possible before the emergence of a criminal act as a result of the speech of hatred;

According to number 2 f Circular Number: SE / 06 / X / 2015 concerning Handling of Hate Speech, utterances of hatred can be in the form of criminal acts stipulated in the Criminal Code (KUHP) and other criminal provisions outside the Criminal Code, in the form of: insult; defamation; humiliation; unpleasant acts; provoke; incite; spread of false news. The spread of hoaxes in the Circular is a part of hate speech. The utterance of hatred as referred above, aims to incite and ignite hatred towards individuals and / or community groups in various communities that are distinguished from aspects: ethnicity; religion; religious school; belief / trust; race; between groups; skin color; ethnicity; gender; disabled people; and sexual orientation.

Hate speech on hate sites is just the first part of a two-part problem. Racially, ethnically or even religiously charged hate speech also appears frequently on popular social media Web sites, such as YouTube, Facebook and Twitter, as well as Yahoo! groups and Google groups. Cases of cyber attacks that occurred in Indonesia throughout 2018: there were 324 cases of hate speech handled and dozens of cases related to hoaxes (Purnamasari, 2018). The Director General of Information and Communication, Ministry of Communication and Information (Kemenkominfo), indicates that the spread of hoaxes is very high, in which it can reach 800 thousand contents per year. The spread of hoaxes is increasing ahead of the election. Various types of social media hoaxes such as provocation, hate speech, including hatred towards ethnicity, religion, race and between groups (Yozami, 2018).

### ***The ideology of Pancasila in Overcoming Hoax and Hate Speech***

The Indonesian nation must be proud of having Pancasila as an ideology that can and is able to bind such a large and diverse Indonesian nation. Pancasila is a national consensus that can be accepted by all groups and community groups in Indonesia. Pancasila is the foundation of the State that unites and is a dynamic guide in directing the Indonesian people to achieve their goals. Pancasila is the identity, personality, morality and direction of the nation's salvation.

The life of the Indonesian nation will be stronger if all components of the nation, in addition to understanding and implementing the Pancasila, also consistently maintain the other main joints of the State, namely the 1945 Constitution of the Republic of Indonesia, the Unitary State of the Republic of Indonesia and Unity in Diversity (Tim Kerja Sosialisasi MPR, 2012). Various calls, appeals and decisions have been taken by the President as the State organizer to strengthen the Four Consensus of National Life, such as: Appeal or invitation, pledge to strengthen identity as a nation "I am Indonesian, I am Pancasila". The moment of celebration of the 72nd anniversary of the Proclamation of the Independence of the Republic of Indonesia at the State Palace was enlivened with the using of Indonesian traditional costumes by the officials and guests as a symbol of respecting the unity in diversity spirit. A similar appeal was also made in the commemoration of the birth of the Pancasila on June 1, 2019, as a very appropriate moment to revive a sense of unity and national spirit after the tragedy of anarchist demonstration on May 21 and 22 2019.

Thus, the future struggle can still maintain the Pancasila as a State ideology by implementing the values contained in daily activities, as well as commitments to carry out the administration of the State based on the 1945 Constitution as a constitutional foundation and the Unitary State of the Republic of Indonesia by developing the spirit of brotherhood between ethnicity, race and religion based on Unity in Diversity. All of them can direct and become the capital to unite in pluralism. All religions also strengthen national integration through various teachings that emphasize fairness, compassion, unity, brotherhood, respect and togetherness. In addition, the noble values of the nation's culture manifested through customs also play a role in binding to the inner relations of each member of the nation's society.

Various thoughts, attitudes and responsibilities to maintain the integrity of the Indonesian nation are because of the history of the new order to the reformation order, the Indonesian nation experienced a multidimensional crisis in 1997, there was a serious threat to the unity and noble values of national life. There have been acts of moral degradation from all groups, this can be seen from prolonged social conflict, loss of manners and noble character in social relations, weakening honesty and trustworthiness in national life, ignoring various legal and regulatory provisions caused by various factors, both internal and external, so it was deemed necessary to issue MPR Decree Number VI / MPR / 2001 concerning the Ethics of National Life.

As an ideology, the Pancasila is a guideline for the Indonesian Nation to organize various aspects of

its life. According to Terry Eagleton, there are at least six (6) ways to understand ideology operationally, those are:

Ideology in the Meaning of Culture; Cultural ideology means "the process of producing ideas, beliefs and values in people's lives". In this understanding, ideology is the practice of meaning and symbolization in society in living their lives as citizens. This understanding shows that ideology has a broad scope, not only related to mere political ideology;

Ideology in the Meaning of World Views; means ideas or beliefs, whether true or not, which symbolize the conditions and life experiences of important and influential community groups or classes. "In this context, ideology provides a kind of ideal to be achieved in a social group;

Ideology in the Meaning of Legitimacy Tools; means "a tool to give legitimacy and promotion to the interests of certain social groups when dealing with their opponents. In this position, ideology becomes a vehicle for the promotion of various political and social forces when conflicting and fighting for control of power";

Ideology in the Meaning of the Legitimacy Tool for Dominant Groups; means "a tool to unite a particular social formation in accordance with the interests of the dominant group". In this case, the ideology is not only imposed on the elite in a top-down manner, but also uses a strategy of hegemony, namely the recognition and cooperation of groups or the lower classes;

Ideology in the Meaning of Legitimacy Through Distortion, means "a tool to provide validity for the class or elite group but by means of distortion and manipulation". Ideology becomes a means of validating the interests of the elite by systematically using manipulation, deception and distortion. It could be that in this case, ideology is an elite personal interest and not reflecting the overall interest";

Ideology as a pseudo belief, means "a belief that is considered to represent the interests of the dominant group, but is actually only a reification of the overall structure of society" (Hikam, 2016).

From a number of notions of ideology above, it is appropriate for Indonesia to uphold its ideology, namely Pancasila as the basis for the life of nation and state. Pancasila must continue to be held as the basis of the State to fight radical threats and hoaxes that continue to grow to this day.

Pancasila as the idiomatic foundation of the Indonesian people is believed to be able to filter out various ideological influences that enter Indonesia as a logical consequence of a pluralistic society and nation. The Indonesian nation does not deny the presence of outside culture or outside ideology. However, through the Pancasila, the State can sort out which influences are acceptable or not. The state is also able to adapt these influences from outside to the context of Indonesian culture or refuse it because it is not in accordance with the philosophy, moral ideals and national ideology.

The spread of hoaxes and hate speech is contrary to Pancasila. Therefore, it needs to be done a soft approach that requires a comprehensive idiomatic foundation. Pancasila is believed to be one of the soft approaches in harmony with the realization of the deradicalization program. Besides that, Pancasila also functions as a philosophy of life as a nation and a national ideology which can actually be applied in the lives of Indonesian people. A number of Pancasila values that should be actualized in life as a nation of Indonesian citizens, namely:

As a manifestation of values from the first principle in Pancasila, Belief in the One and Only God, a balanced attitude, tolerance, plurality, and moderation are very feasible to develop. In the context of interfaith relations, Pancasila rejects the coercion of the will of individuals and groups towards each other based on the interpretation of the religion that is considered the most correct. Radical fundamentalist ideology contradicts Pancasila, because it imposes will by refusing to give space to different interpretations. Such an absolute statement of truth will be able to damage the order of the people of the nation and the State that has pluralist characteristics.

In the principle of Just and Civilized Humanity, attitudes and behaviors that must be actualized are the recognition of human rights, including civil, political, economic and socio-cultural rights. Thus, a forced will by a radical group, the spreader of slander and hatred, is essentially contrary to the Pancasila because it violates human rights in the context of the life of the nation and state.

In the principle of Indonesian Unity, it must be re-actualized that the Indonesian nation is based on the principle of nationality not on the basis of a particular religion, ethnicity or race. Radical

fundamentalists who want to change the principle of nationality with another principle means that wanting to change the NKRI with other principles such as Islam is very contrary to the national foundation of the Pancasila ideology.

The 4th principle, prioritizing the social and state system in Indonesia with the principle of democracy. This spirit is increasingly strengthened and rectified after the reformation in Indonesia. Sovereignty placed in the hands of the people is solely against the behavior of groups who want to impose totalitarian principles, especially of fundamentalists who tend to be refesive and only recognize the existence of God's sovereignty.

The government and the community should jointly realize the welfare of society as well as possible. The direction of welfare that wants to be realized is the welfare of the people of the nation in a fair and equitable manner both physically and mentally, is the initial goal of and manifestation of the principle of Social Justice for the Entire Indonesian People (Hikam, 2016).

In addition to the actualization of the values above, the strategic thing can also be seen from the Indonesian constitutional system, as stated in the Preamble of the 1945 Constitution, that the number one goal in the opening of the Indonesian constitution is to protect the entire Indonesian nation. In the Preamble of the 1945 Constitution, the existence of Pancasila also contains philosophical meanings related to the life view of a nation namely moral and ethics values as a basis in carrying out actions in a community (Handoyo, 2014) (Laboratorium Pancasila IKIP Malang, 1990). Radical ideologies and behaviors that want to destroy the nation's civilization and the occurrence of national disintegration have been responded firmly and systematically by the state apparatus and together with the Indonesian people. There is a commitment to fight radical attitudes and behavior by caring for the awareness as a nation with a pledge "I am Indonesian, I am Pancasila ". Leave gossip, hoaxes, spread hatred with "Work, Work, Work", so that it becomes an Indonesian nation that has dignity, honor and productivity in the framework of facing global challenges.

#### **IV.CONCLUSION**

Freedom on the grounds that democracy has been misinterpreted even deviated from the true meaning of democracy by a number of irresponsible individuals, so that actions such as spreading false news (hoaxes), acts of spreading hatred, terrorist acts and radical movements that destroy the order of life of the nation seem to be seen as a justified act in the name of democracy. On the other hand, those are excessive and very contrary to the nature of constitutional democracy even the law State of Pancasila. The reformation that was raised since 1998 have not been able to contribute to the behavior change of a number of State and Regional officials, which can be seen from the increasingly widespread acts of corruption, embezzlement, mark ups, extortion, etc. including criminalization of policy, politicization of budget that enable chaos in the State which can lead to the disintegration of the nation. A commitment is needed for State administrators such as the President to issue regulations and guidelines in actualizing Pancasila values in everyday life to all levels of society by prioritizing a life that respects democracy, human dignity, human rights, acts based on the law in accordance with constitutional values in the 1945 Constitution and the values of the Pancasila as a philosophy, the basis of the State and the nation's views of life. The resurrection of the people as a nation is a value that should be developed early so that a high sense of solidarity in the nation and State is realized within the framework of the Republic of Indonesia and as social capital to be able to overcome problems better, both internal and external problems from globalization.

#### **REFERENCES**

- Handoyo, B, H, C. (2014). *Prinsip-prinsip Legal Drafting dan Desain Naskah Akademik*. Yogyakarta: Cahya Atma Pustaka.
- Hikam, M. (2016). *Deradikalisasi*. Jakarta: Kompas Media Nusantara.
- Huzaini, D, P. (2018). Ujaran Kebencian dan Berita Bohong, Apa Beda di Eropa dan Indonesia? Negara-negara demokrasi menjunjung kebebasan menyatakan pendapat. Retrieved from <https://www.hukumonline.com/berita/baca/lt5bc99e2b720ce/ujaran-kebencian-dan-berita-bohong--apa-beda-di-eropa-dan-indonesia/>
- Juliswara, V. (2017). Mengembangkan model literasi media yang berkebhinnekaan dalam menganalisis informasi berita palsu (hoax) di media sosial. *Jurnal Pemikiran Sosiologi*, 4(2), 142-164.
- Laboratorium Pancasila IKIP Malang (1990). *Pendidikan Pancasila di Perguruan Tinggi*. Malang: IKIP Malang.

- Purnamasari, N. (2018). *Wiranto: Ada 53 Kasus Hoax dan 324 Hate Speech Sepanjang 2018*. Retrieved from <https://news.detik.com/berita/d-4272642/wiranto-ada-53-kasus-hoax-dan-324-hate-speech-sepanjang-2018>.
- Ring, C. E. (2013). Hate speech in social media: An exploration of the problem and its proposed solutions..
- Sirajuddin, M., Kamil, S. U. R., & Fachruddin, S. (2017, October). War 3.0: The Indonesia Challenge Against Hoax, Hate Speech and Social Media Abuse. In *Unhas International Conference on Social and Political Science (UICoSP 2017)*. Atlantis Press.
- Sofyan, H. & Hufron (2016). *Ilmu Negara Kontemporer*. Yogyakarta: LaksBang.
- Tim Kerja Sosialisasi MPR (2012) *Empat Pilar Kehidupan Berbangsa dan Bernegara*. Jakarta: Sekjen MPR RI.
- Wahid, N. (2017). *HTI, PERPPU dan Pancasila*. Kompas.com.
- Yozami, M, A. (2018). *Daftar Konten Hoax yang Curi Perhatian Publik di 2018*. Retrieved from <https://www.hukumonline.com/berita/baca/lt5c1a398108e40/daftar-konten-hoax-yang-curi-perhatian-publik-di-2018/>